IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

Criminal Application No.1602 of 2006

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In this case, the applicant is charge sheeted on the allegation that he indulged in money lending business without a license and advanced a sum of money to the complainant Dnyaneshwar Dudhat about 25 years ago and got sale deed of 5 acres of land executed in favour of the applicant's wife by giving threats to the complainant. On the report by victim - Dnyaneshwar Dudhat, police registered offence and on completion of investigation, sent charge sheet.

The learned counsel for the applicant pointed out that, even according to the F.I.R., money was lent about 25 years ago. The alleged sale deed, copy whereof has been filed on record, was executed in the year 1983 before the Sub-Registrar. In the same year, one Babarao Hood had filed a suit against the complainant for specific performance of agreement of sale in respect of same piece of land. In this suit, the complainant had filed a Written Statement admitting to have entered into a transaction in respect of land with the applicant's wife.

In view of the above, the complaint of Dnyaneshwar cannot form foundation of a charge sheet alleging that the applicant indulges in unlawful money lending. If the investigating machinery has other evidence in respect of unlawful money lending activities of the applicant, it would be at a liberty to prosecute the applicant. But the present charge sheet

based on the complaint of Dnyaneshwar Dudhat cannot be sustained.

The complainant Dnyaneshwar Dudhat - who is arrayed as respondent no.3, though served, has not cared to appear. In view of this, since the reply filed on behalf of respondent no.1 does not show that there is any other foundation for the charges levelled, for which the applicant is being prosecuted, except complaint of Dudhat in respect of one transaction with Dudhat, the application is allowed.

The First Information Report bearing Crime No.3012 of 2005 and the charge sheet bearing No.18 of 2006 filed against the applicant, resulting in issuance of process are quashed.

JUDGE

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